

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

MARLIN HERBST,)	
)	Case No. 5:17-cv-04008-MWB
)	
)	Plaintiff,
)	
v.)	
)	BUSH BOAKE ALLEN INC., et al.
)	
)	Defendants.
)	

**TABLE OF CONTENTS FOR
APPENDIX IN SUPPORT OF
PLAINTIFF'S RESISTANCE TO
DEFENDANT GIVAUDAN
FLAVORS CORPORATION'S
MOTION FOR SUMMARY
JUDGMENT**

1. March 27, 2008 Order in *Vicki Stillmunkes v. Givaudan Flavors Corporation*, Case No. C04-85-MWB, in the United States District Court for the Northern District of Iowa 0001
2. Excerpts from the March 19, 2008 Deposition of Greg Hoffman in *Kuiper v. International Flavors & Fragrances, Inc., et al.*, Case No. C06-4009-MWB, in the United States District Court for the Northern District of Iowa 0005
3. Excerpts from the March 3, 1990 Trial Transcript of Greg Hoffman in *Kuiper v. International Flavors & Fragrances, Inc., et al.*, Case No. C06-4009-MWB, in the United States District Court for the Northern District of Iowa..... 0012
4. 3/19/1993 Givaudan Material Safety Data Sheets #247027, 247208, 205103, and 220108..... 0016
5. Givaudan Labels from 1991;1993 (Flavor #'s 202944, 247027 and 247028) 0032
6. Excerpts from the November 30, 2005 Deposition of Greg Hoffman in *Remmes v. International Flavors & Fragrances, Inc., et al.*, Case No. 5:04-cv-04061-MWB, in the United States District Court Northern District of Iowa 0033
7. April 18, 1990 Letter from Fries & Fries to Dale Hartshorn 0042
8. June 17, 1991 Letter from Fries & Fries to American Popcorn..... 0044
9. Excerpts from the December 1, 2005 Deposition of Dale Hartshorn in *Remmes v. International Flavors & Fragrances, Inc., et al.*, Case No. 5:04-cv-04061-MWB, in the United States District Court Northern District of Iowa. 0045
10. Affidavit of Marlin Herbst 0053

11.	1985 Flavor or Fragrance Ingredient Data Sheet for Diacetyl.....	0056
12.	Excerpts from the April 6, 2006 Deposition of Nancy Higley in <i>Arthur, et al. v. International Flavor & Fragrances, Inc., et al.</i> , Case No. A0307157 in the Court of Common Pleas, State of Ohio, County of Hamilton	0061
13.	Excerpts from the June 25, 2008 Deposition of John Hallagan in <i>Christopher Blood, et al. v. Givaudan Flavors Corporation, et al.</i> , Case No. 1:07-CV-14, in the United States District Court, Northern District of Iowa	0069
14.	April 8, 1999 Letter from Nancy Higley to Dr. Flueckiger.....	0078
15.	Excerpts from the July 11, 2006 Deposition of Robert P. Burns in <i>Remmes v. International Flavors & Fragrances, Inc., et al.</i> , Case No. 5:04-cv-04061 in the United States District Court, Northern District of Iowa.....	0082
16.	Affidavit of David Bratton.....	0092
17.	Excerpts from the January 12, 2006 Deposition of David Bratton in <i>Arthur, et al. v. International Flavors & Fragrances, Inc., et al.</i> , Case No. A0307157, in the Court of Common Pleas, Hamilton County, Ohio.....	0094
18A	Chart of Givaudan sales to American Popcorn.....	0098A
18.	Givaudan Invoices to American Popcorn	0098
19.	Stipulation re: diacetyl content from <i>Kuiper v. International Flavors & Fragrances, Inc., et al.</i> , Case No. C06-4009-MWB, in the United States District Court for the Northern District of Iowa and Formulas for Givaudan Flavors	0109
20.	November 17, 1992 Letter from Coroner's Office to Tastemaker	0119
21.	Handwritten Notes re: 1992 cases.....	0120
22.	February 18, 1993 Memorandum re: Occupational Health Concern.....	0125
23.	Tastemaker Operational Procedures, Date: August 13, 1992, for Natural & Artificial Diacetyl Spray Drying.....	0129
24.	Compilation of Correspondence between American Popcorn and Givaudan and Notes re: American Popcorn's Visits to Givaudan Plant.....	0131
25.	Excerpts from the March 19, 2008 Deposition of Dale Hartshorn in <i>Kuiper, et al. v. International Flavors & Fragrances, Inc., et al.</i> , Case No. C06-4009-MWB in the United States District Court Northern District of Iowa	0144
26.	OSHA Hazard Communication Standard, 29 C.F.R. § 1910.1200.....	0149

27.	Excerpts from the December 16, 2008 Deposition of Fred Stults in <i>Aldrich, et al. v. International Flavors & Fragrances, Inc., et al.</i> , Case No. A0700451, in the Court of Common Pleas, Hamilton County, Ohio.....	0155
28.	Affidavit of Dr. Charles Pue w/ accompanying reports (A-C)	0159
29.	Excerpts from the May 31, 2006 Deposition of Dan Larsen in <i>Arthur, et al. v. International Flavors & Fragrances, Inc.</i> , Case No. A0307157, in the Court of Common Pleas, Hamilton County, Ohio	0182
30.	March 6, 1991 Specification Sheet for Natural Butter Flavor WONF (Light) #202944.....	0188

Respectfully submitted,

s/ J'Nan C. Kimak

KENNETH B. McCLAIN (admitted pro hac vice)
J'NAN C. KIMAK (admitted pro hac vice)
ANDREW K. SMITH (admitted pro hac vice)
MICHAEL S. KILGORE (admitted pro hac vice)
NICHELLE L. OXLEY (admitted pro hac vice)
HUMPHREY, FARRINGTON & McCLAIN, P.C.
221 W. Lexington, Suite 400
Independence, Missouri 64050
(816) 836-5050
(816) 836-8699 fax
kbm@hfmlegal.com
jck@hfmlegal.com
aks@hfmlegal.com
msk@hfmlegal.com
nlo@hfmlegal.com

AND

DENNIS M. McELWAIN	AT0005253
JAY M. SMITH	AT0007387
SMITH & McELWAIN LAW OFFICE	
505 5 th Street, Suite 530	
Sioux City, Iowa 51101	
(712) 255-8094	
(712) 255-3825 fax	
smitmcel@aol.com	

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of March, 2018, I electronically filed the foregoing with the Court using the Court's CM/ECF system which sends notification of same to all counsel of record also listed below:

s/J'Nan C. Kimak

ATTORNEY FOR PLAINTIFFS

Robert M. Slovek
Matthew E. Enenbach
Kutak Rock LLP
The Omaha Building
1650 Farnam Street
Omaha, NE 68102-2186
(402) 346-6000
(402) 346-1148 fax
Robert.Slovek@KutakRock.com
matthew.enenbach@kutakrock.com

and

Kimberly E. Ramundo
Stephen J. Butler
Thompson Hine LLP
312 Walnut Street, Suite 1400
Cincinnati, OH 45202
(513) 352-6587
(513) 251-4771
Kim.Ramundo@thompsonhine.com
Steve.butler@thompsonhine.com
**ATTORNEYS FOR GIVAUDAN
FLAVORS CORPORATION**

Douglas L Phillips
Klass Law Firm, L.L.P.
Mayfair Center, Upper Level
4280 Sergeant Road, Ste. 290
Sioux City, IA 51106
(712) 252 1866
(712) 252 5822 fax
phillips@klasslaw.com

and

Jason Meyer
Christopher J. Mulvaney
Gordon & Rees
101 West Broadway, Suite 2000
San Diego, CA 92101
619-270-7858 Telephone
(619) 696-7124 Facsimile
jmeyer@gordonrees.com
cmulvaney@gordonrees.com

ATTORNEYS FOR EMORAL, INC.